

Message Text

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43

ACTION NEA-16

INFO OCT-01 ISO-00 NEAE-00 SCS-03 SCA-01 L-03 DRC-01 RSC-01

SSO-00 /026 W

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O 281609Z MAY 74

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 1704

C O N F I D E N T I A L NEW DELHI 7032

FOLNG SENT NEW DELHI IMMEDIATE FM CALCUTTA DTD MAY 28

QUOTE: CALCUTTA 1029

E.O. 11652: GDS

TAGS: ASC, PFOR

SUBJ: HARCOS/FLETCHER TRIAL

REF: CALCUTTA 1017

1. FQ FDWO PROVED THAT THE UNDER SECRETARY WAS UNABLE TO GIVE US ANYTHING FURTHER, I CALLED THE HOME SECRETARY (B. MUKHERJEE) DIRECTLY TO INQUIRE ABOUT STATUS OF REPLY TO MY LETTER OF MAY 16 (CALCUTTA 0953).

2. HOME SECRETARY SAID GOWB HAD STILL NOT COMPLETED ITS CONSIDERATION OF THE MATTER, BUT HE GAVE ME INFORMALLY WHAT HE THOUGHT THE OUTCOME WOULD BE, I.E., THAT HEREAFTER WE WOULD HAVE TO APPLY DIRECTLY TO THE COURT TO REQUEST CONSULAR ACCESS. HE SAID THIS WAS REQUIRED SINCE THE PRISONERS ARE IN FACT IN THE CUSTODY OF THE COURT RATHER THAN THE JAIL.

3. I ASKED HIM IF THAT MEANT THE TRIAL HAD BEGUN, SINCE I KNEW OF NO OTHER NEW ELEMENTS IN THE SITUATION THAT WOULD BEING ABOUT THIS CHANGE IN PROCEDURES. HE SAID IT DID NOT MEAN THAT, BUT SIMPLY THAT WHEREAS EARLIER THE PROCEDURES HAD BEEN ACCEPTED WITHOUT CHALLENGE, THE COURT HAS NOW

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ORDERED THAT ALL INTERVIEWS WITH THE PRISONERS, INCLUDING

INTERVIEWS BY THEIR LAWYERS, MUST HAVE THE COURTS PRIOR APPROVAL.

4.I THANKED HIM FOR GIVING ME THIS ADVANCE READING OF LIKELY OUTCOME OF GOWB CONSIDERATION OF THE MATTER. I SAID I WAS FRANKLY UNCERTAIN AS TO WHETHER THIS ARRANGEMENT WOULD BE REGARDED BY MY GOVERNMENT AS CONSISTITUTING CONSULAR ACCESS IN ACCORDANCE WITH USUAL INTERNATIONAL PRACTICE. I SAID I WOULD INFORM DELHI AND WASHINGTON OF OUR CONVERSATION AND LET HIM KNOW THE OUTCOME AS SOON AS POSSIBLE.

5. REQUEST GUIDANCE ON WHAT OUR RESPONSE TO THIS SHOULD BE. I WILL DELAY APPROACHING THE CHIEF SECRETARY UNTIL SUCH GUIDANCE RECEIVED.
PICKERING
UNQUOTE. MOYNIHAN

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